
GENERAL NOTICE

GENERAL NOTICE 282 OF 2011

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

INVITATION FOR PUBLIC COMMENTS

ON

- A: THE PROMOTION OF NATIONAL UNITY AND RECONCILIATION ACT, 1995 : REGULATIONS RELATING TO ASSISTANCE TO VICTIMS IN RESPECT OF BASIC EDUCATION**
- B: THE PROMOTION OF NATIONAL UNITY AND RECONCILIATION ACT, 1995 : REGULATIONS RELATING TO ASSISTANCE TO VICTIMS IN RESPECT OF HIGHER EDUCATION AND TRAINING**
- C: THE PROMOTION OF NATIONAL UNITY AND RECONCILIATION ACT, 1995 : REGULATIONS RELATING TO MEDICAL BENEFITS FOR VICTIMS**

1. INVITATION

- 1.1 The Department of Justice and Constitutional Development invites interested parties to submit written comments on the proposed draft Regulations which are attached hereto as Annexures A, B and C. The draft Regulations and a note, explaining the background of the proposed regulations, are also available on the website of the Department at the following address: <http://www.justice.gov.za>.
- 1.2 The comments on the draft Regulations must be submitted not later than **8 June 2011**, marked for the attention of **Ms F Bhayat** or **Ms I Botha**, and –
- (a) if they are forwarded by post, be addressed to –
The Director-General: Justice and Constitutional Development
Private Bag X81
Pretoria
0001
- (b) if they are delivered by hand, be delivered at –
Momentum Building, Room 9.34, East Tower
329 Pretorius Street
Pretoria
- (c) if they are delivered by email, be emailed to fbhayat@justice.gov.za or inbotha@justice.gov.za
- (d) if they are faxed, be faxed to **086 754 8493** or **086 648 2289**
- 1.3 For further information, please do not hesitate to contact Ms F Bhayat at 012 315 1480 or Ms I Botha at 012 315 1702.

2. BACKGROUND NOTE

The following background information is hereby furnished in order to assist interested parties to comment on the proposed regulations.

- 2.1 The Promotion of National Unity and Reconciliation Act, 1995 (Act No. 34 of 1995) (the Act), established the Truth and Reconciliation Commission (the TRC). The Act, among others, mandated the TRC to make recommendations to the President with regards to the policy which should be followed or measures which should be taken relating to the granting of reparation to victims or the taking of other measures aimed at rehabilitating and restoring the human and civil dignity of victims. The TRC completed its mandate, whereafter it was dissolved.
- 2.2 In compliance with section 27 of the Act, a joint committee was established to consider the recommendations of the TRC regarding reparation to victims. The decisions of the joint committee were approved by Parliament. The decisions of the Joint Committee are dealt with under the following four headings : Symbols and monuments; rehabilitation of communities; medical benefits and other forms of social assistance; and final reparation. In terms of section 27 of the Act, these decisions must be implemented by the President by making Regulations. All amounts payable to victims by way of reparation must be provided for in the Regulations and must be paid from the President's Fund, which was established in terms of the Act. The attached Regulations fall within the scope of "medical benefits and other forms of social assistance", which includes educational assistance.

ANNEXURE B**GOVERNMENT NOTICE****DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT****No. R.****2011****PROMOTION OF NATIONAL UNITY AND RECONCILIATION ACT, 1995****REGULATIONS RELATING TO ASSISTANCE TO VICTIMS IN RESPECT
OF HIGHER EDUCATION AND TRAINING**

The President has, under section 27(2) of the Promotion of National Unity and Reconciliation Act, 1995 (Act No. 34 of 1995), and after the procedures prescribed in sections 4(f)(i) and 27(1) and (2) of the said Act were complied with, made the Regulations in the Schedule.

SCHEDULE**Definitions**

1. In these Regulations, any word or expression to which a meaning has been assigned in the Act bear the meaning so assigned and, unless the context indicates otherwise-

“accounting officer” means the officer appointed by the Minister of Justice and Constitutional Development under section 42(6) of the Act;

“administrator” means an official in the Department designated or a person appointed by the Director-General for purposes of dealing with applications for assistance in terms of these Regulations and matters related thereto;

“adult basic education and training” means adult basic education and training as defined in section 1 of the Adult Basic Education and Training Act;

“assistance” means the monetary assistance provided for in regulations 5, 6, 7 and 8 of the Regulations;

“beneficiary” means a victim or a relative of a victim in respect of whom a request for assistance has been approved;

“centre” means a centre as defined in section 1 of the Adult Basic Education and Training Act;

“college” means a college as defined in section 1 of the Further Education and Training Colleges Act;

“days” means calendar days;

“Department” means the Government department responsible for higher education and training at national level;

“Director-General” means the Director-General of the Department of Higher Education and Training;

“fees” means money paid or payable by a person in relation to the attendance of or participation in —

- (a) a learning and training programme offered by a centre, to a learner;
- (b) a learning and training programme offered by a college, to a student;
- (c) a learning programme offered by a higher education institution, to a student; or
- (d) a learning programme offered by a skills development provider, to a learner,

and includes any fee for registration, administrative costs and tuition fees;

“Fund” means the Fund established under section 42(1) of the Act;

“fund administrator” means the officer so designated by the Minister of Justice and Constitutional Development under section 42(5) of the Act, or, except for regulation 15(1), any other officer referred to in section 42(5) of the Act;

“further education and training” means further education and training as defined in section 1 of the Further Education and Training Colleges Act;

“higher education” means higher education as defined in section 1 of the Higher Education Act;

“higher education and training ” means—

- (a) adult basic education and training;
- (b) further education and training; and
- (c) higher education;

“higher education and training institution” means—

- (a) a centre;
- (b) a college; or
- (c) a higher education institution;

“higher education institution” means a higher education institution as defined in section 1 of the Higher Education Act;

“household” means the members of a family who live together;

“learner” means—

- (a) a learner as defined in section 1 of the Adult Basic Education and Training Act; and
- (b) a learner as defined in section 1 of the Skills Development Act;

“private higher education and training institution” means—

- (a) a private centre as defined in the Adult Basic Education and Training Act;
- (b) a private college as defined in the Further Education and Training Colleges Act; or
- (c) a private higher education institution as defined in the Higher Education Act;

“public higher education and training institution” means—

- (a) a public centre as defined in the Adult Basic Education and Training Act;
- (b) a public college as defined in the Further Education and Training Colleges Act; or
- (c) a public higher education institution as defined in the Higher Education Act;

“recipient” means –

- (a) a higher education and training institution or skills development provider;
- (b) a beneficiary;
- (c) a person who exercises parental responsibility over a beneficiary; or
- (d) a person designated by a beneficiary or by a person who exercises parental responsibility over a beneficiary;

“relative of the victim” for the purposes of these Regulations means -

- (a) a person who is, or where the victim is deceased, was married to a victim, under any tradition, or a system of religious, personal or family law;
- (b) a child of a victim, irrespective of whether or not the child was born in or out of wedlock or was legally adopted; or
- (c) a child of a person as contemplated in paragraph (b), if the victim supports that child;

“requester” means a person who has requested assistance in terms of regulation 11;

“request form” means the form referred to in regulation 11;

“skills development” means skills development as contemplated in the Skills Development Act;

“skills development provider” means a skills development provider as defined in and accredited in terms of the Skills Development Act;

“student” means a student as defined in the Higher Education Act and the Further Education and Training Colleges Act;

“the Act” means the Promotion of National Unity and Reconciliation Act, 1995 (Act No. 34 of 1995);

“the Adult Basic Education and Training Act” means the Adult Basic Education and Training Act, 2000 (Act No. 52 of 2000);

“the Further Education and Training Colleges Act” means the Further Education and Training Colleges Act, 2006 (Act No. 16 of 2006);

“the Higher Education Act” means the Higher Education Act, 1997 (Act No. 101 of 1997);

“the Skills Development Act” means the Skills Development Act, 1998 (Act No. 97 of 1998); and

“victim” for the purposes of these Regulations means a person who has been found by the Commission to be a victim as defined in paragraphs (a) and (b) of section 1(1) of the Act.

Objects and application of Regulations

3. (1) The objects of these Regulations are to provide assistance in respect of adult basic education and training, further education and training, higher education and skills development to a victim or a relative of a victim, who meets the conditions set out in regulation 10.

(2) Assistance to a victim or a relative of a victim may only be provided in respect of higher education and training offered at a public higher

education and training institution, unless the Administrator is satisfied that the programmes for which the victim or relative of the victim requests assistance, is only offered at a private higher education and training institution.

(3) Assistance to a victim or a relative of a victim may, subject to regulations 6(4), 7(4), 8(4) and 20, be provided in respect of more than one of the categories of assistance referred to in regulations 5, 6, 7 and 8.

(4) Assistance to a victim or a relative of a victim may be provided in respect of part-time or distance higher education and training: Provided that —

- (a) no boarding allowance may be provided; and
- (b) no transport allowance may be provided in the case of distance higher education and training.

(5) Assistance may be provided to a post-graduate student or learner.

Authority responsible for application of Regulations

3. The Director-General is responsible for the application of these Regulations, except for the authorisation and payment of the assistance provided for in these Regulations.

Amount available for assistance

4. (1) The accounting officer must, in consultation with the Director-General, determine annually in writing, by not later than 15 January of every year, the amount available for the particular year for assistance in terms of these Regulations.

(2) The accounting officer must, in determining the amount, take into account —

- (a) the amount which is still available in the Fund;
- (b) existing commitments of the Fund;
- (c) other forms of reparation to victims, which were approved by Parliament in terms of section 27(2) of the Act and are under consideration by the Department of Justice and Constitutional Development, which must be paid from the Fund; and
- (d) the amount paid out as assistance during the previous year, if applicable.

Assistance in respect of adult basic education and training

5. (1) Assistance in respect of adult basic education and training in the following forms may be provided:

- (a) Payment to the centre by the fund administrator of the fees, not exceeding an amount of R5 000-00, charged by the centre in respect of a beneficiary to complete the adult basic education and training programme; and
- (b) payment of a transport allowance in respect of a beneficiary, not exceeding an amount of R3 000-00 per annum, by the fund administrator to a recipient, if the beneficiary has to travel to and from the centre.

(2) The amount of R5 000-00 in respect of the fees referred to in subregulation (1)(a) may be paid over a period of more than one year.

(3) (a) The transport allowance referred to in subregulation (1)(b) may only be paid if –

- (i) the beneficiary has to make use of transport to travel to the centre;
- (ii) the centre attended is the nearest centre and if it is situated in a radius of more than 1,5 km from the place of residence of the beneficiary; and
- (iii) the beneficiary does not travel free of charge to the centre.

(b) Paragraph (a)(ii) is not applicable in respect of a beneficiary who is physically handicapped.

Assistance in respect of further education and training

6. (1) Assistance in respect of further education and training in the following forms may be provided:

- (a) Payment of the fees in respect of the beneficiary, not exceeding an amount of R15 000-00 per annum, by the fund administrator to the college attended by the beneficiary;
- (b) payment of a boarding allowance in respect of the beneficiary, not exceeding an amount of R20 000 per annum, by the fund administrator to the person, institution or body responsible for the management and administration of the hostel or place where the beneficiary resides or boards;
- (c) payment of a transport allowance in respect of the beneficiary, not exceeding an amount of R3 000-00 per annum, by the fund administrator to a recipient, if the beneficiary has to travel to and from the college; and
- (d) payment to the recipient or the service provider by the fund administrator of an allowance, not exceeding R3 000-00 per annum, for the purchasing of textbooks.

(2) The boarding allowance referred to in subregulation (1)(b) may only be paid if –

- (a) the beneficiary does not reside with his or her family;
- (b) the beneficiary has to pay for accommodation ; and
- (c) the beneficiary has to hire accommodation due to the distance between his or her place of residence and the location of the college or the unavailability of transport.

(3) (a) The transport allowance referred to in subregulation (1)(c) may only be paid if –

- (i) the beneficiary has to make use of transport to travel to the college;
- (ii) the college is situated in a radius of more than 3 km from the place of residence of the beneficiary; and
- (iii) the beneficiary does not travel free of charge to the college.

(b) Paragraph (a)(ii) is not applicable in respect of a beneficiary who is physically or mentally handicapped.

(4) The assistance provided for in subregulation (1) may be provided to a victim or a relative of a victim for a period not exceeding three years.

Assistance in respect of higher education

7. (1) Assistance in respect of higher education in the following forms may be provided:

- (a) Payment of the fees of the beneficiary, not exceeding an amount of R25 000-00 per annum, by the fund administrator to the higher education institution attended by the beneficiary;
- (b) payment of a boarding allowance in respect of the beneficiary, not exceeding an amount of R20 000 per annum, by the fund administrator to the person, institution or body responsible for the management and administration of the hostel or place, where the beneficiary resides or boards; and
- (c) payment of a transport allowance in respect of the beneficiary, not exceeding an amount of R5 000-00 per annum, by the fund administrator to a recipient, if the beneficiary has to travel to and from the institution; and
- (d) payment to the recipient or the service provider by the Fund administrator of an allowance, not exceeding R5 000-00 per annum, for the purchasing of textbooks.

(2) The boarding allowance referred to in subregulation (1)(b) may only be paid if –

- (a) the beneficiary does not reside with his or her family;
- (b) the beneficiary has to pay for accommodation ; and
- (c) the beneficiary has to hire accommodation due to the distance between his or her place of residence and the location of the higher education institution or the unavailability of transport.

(3) (a) The transport allowance referred to in subregulation (1)(c) may only be paid if –

- (i) the beneficiary has to make use of transport to travel to the higher education institution;
- (ii) the higher education institution is situated in a radius of more than 3 km from the place of residence of the beneficiary; and
- (iii) the beneficiary does not travel free of charge to the higher education institution.

(b) Paragraph (a)(ii) is not applicable in respect of a beneficiary who is physically handicapped.

(4) The assistance provided for in subregulation (1) may be provided to a victim or a relative of a victim for a period not exceeding five years.

Assistance in respect of skills development

8. (1) Assistance in respect of skills development in the following forms may be provided:

- (a) Payment to the skills development provider by the fund administrator of the fees, not exceeding an amount of R25 000-00, charged by the skills development provider in respect of a beneficiary to complete the learning programme as contemplated in the Skills Development Act;
- (b) payment of a boarding allowance in respect of the beneficiary, not exceeding an amount of R20 000 per annum, by the fund administrator to the person, institution or body responsible for the management and administration of the hostel or place where the beneficiary resides or boards;
- (c) payment of a transport allowance in respect of a beneficiary, not exceeding an amount of R5 000-00 per annum, by the fund

administrator to a recipient, if the beneficiary has to travel to and from the place where the learning programme is offered; and

- (d) payment to the recipient or the service provider by the fund administrator of an allowance, not exceeding R5 000-00 per annum, for the purchasing of textbooks or materials and equipment which the beneficiary may require for the purposes of the learning programme.

(2) The boarding allowance referred to in subregulation (1)(b) may only be paid if –

- (a) the beneficiary does not reside with his or her family;
 (b) the beneficiary has to pay for accommodation; and
 (c) the beneficiary has to hire accommodation due to the distance between his or her place of residence and the place where the learning programme is offered or the unavailability of transport.

(3) (a) The transport allowance referred to in subregulation (1)(c) may only be paid if –

- (i) the beneficiary has to make use of transport to travel to the place where the learning programme is offered;
 (ii) the place referred to in subparagraph (i) is situated in a radius of more than 3 km from the place of residence of the beneficiary; and
 (iii) the beneficiary does not travel free of charge to the place referred to in subparagraph (i).

(b) Paragraph (a)(ii) is not applicable in respect of a beneficiary who is physically or mentally handicapped.

(4) The amount of R25 000-00 in respect of the fees referred to in subregulation (1)(a) may be paid over a period of more than one year.

Escalation of amounts

9. (1) The amounts referred to in regulations 5, 6, 7 and 8 must be increased automatically with 5% on 1 January 2012 and thereafter on the first day of January of every consecutive year.

(2) The accounting officer must, by not later than 31 January of each year –

- (a) publish the new amounts in the *Gazette*; and
 (b) in writing inform the Director-General of the new amounts, who must make this information available on the website of the Department.

Conditions for assistance

10. (1) A victim or a relative of a victim may receive assistance provided for in these Regulations if the net income per month of the household of which he or she is a member, does not exceed R12 000.

(2) (a) The net income per month of the household is the amount remaining of the gross income per month of the household after deducting the monthly liabilities of the household.

(b) The gross income per month of the household is the total amount in cash or otherwise, received by or accrued to or in favour of the household on a periodical basis, irrespective of the source thereof.

(c) The monthly liabilities of the household which may be deducted from the gross income per month of the household are the following:

- (i) A mortgage bond or rent, if accommodation is hired;

- (ii) the monthly instalment paid in respect of one motor vehicle under a credit agreement or the monthly transport expenses of every member of the household to travel to and from work;
- (iii) income tax payable by every member of the household;
- (iv) any contribution made by a member of the household towards pension;
- (v) any contribution made by a member of the household in respect of medical aid;
- (vi) R300-00 for every member of the household as living expenses; and
- (vii) any statutory obligatory contribution to be paid by a member of the household, which contribution is deducted from his or her salary by his or her employer.

(3) (a) The administrator must, if there are not sufficient funds available for a particular year to provide assistance to all the victims or relatives of the victims –

- (i) in respect of whom requests for assistance were submitted before the cut-off date referred to in regulation 11(3); and
- (ii) who meet the conditions referred to in subregulations (1) and (2), determine which requests are the most deserving.

(b) In determining which requests are the most deserving, the administrator must take into account the following:

- (i) the level of education of a victim or a relative of a victim;
- (ii) the net income of the household;
- (iii) the number of members of the household;
- (iv) the standard of living of the members of the household, with reference to the monthly liabilities of the household referred to in subregulation (2)(c)(i), (ii), (iv) and (v);
- (v) the value of any assets of the members of the household; and
- (vi) any other relevant information which may have a bearing on the ability of the victim or a relative of the victim to defray the costs and expenses referred to in regulations 5, 6, 7 and 8.

(c) The value of an asset refers to the market value and must be determined after deduction of any amount owed in respect of the asset.

Request for assistance

11. (1) The following persons may request assistance:

- (a) A victim;
- (b) a relative of a victim; or
- (c) a person who exercises parental responsibility over a victim or a relative of a victim on behalf of a victim or a relative of a victim.

(2) (a) A request for assistance must correspond substantially with the request form contained in the Annexure.

(b) The request form must be available on the website of the Department and at the office of the administrator.

(3) (a) A request for assistance must be made annually in respect of the year for which assistance is requested and be submitted to the Director-General within two months after the commencement of these regulations and thereafter on or before 31 January of the year for which assistance is requested.

(b) A request submitted after the cut-off date referred to in paragraph (a) may be considered if the requests submitted on or before the cut-off date have been disposed of and if funds for that year are still available.

(c) A request for assistance submitted after the cut-off date must be considered in the manner provided for in regulation 10.

(4) (a) A person who requests assistance must disclose any financial aid, assistance or concession received or to be received from the Department or any other state institution in respect of the victim or a relative of the victim or from the employer of the victim or a relative of a victim for the particular year for which assistance is requested.

(b) Any amount so received, must be calculated and deducted from the amount for which the beneficiary qualifies in terms of these Regulations before a recommendation is made in respect of the amount of assistance, if any, to be provided in terms of regulations 5, 6, 7 and 8.

(5) The request form must be completed and signed by the requester and, if the request is not made by a victim or a relative of the victim, be countersigned by the victim or the relative of the victim.

(6) (a) The documents required in the request form must be attached to the request form.

(b) The administrator may, if the documents required in the request form are not attached, refuse to consider the request.

(7) The banking details of the recipient set out in the request form must be confirmed by the bank by affixing the official stamp of the bank.

(8) The request form must, after completion, be submitted to the administrator electronically or by facsimile or registered post.

Processing of request for assistance

12. (1) The administrator must, on receipt of the completed request form and despite regulation 13(1) and (2) -

- (a) forthwith, for the purposes of the speedy processing of the request and rendering of assistance, obtain any further information or documentation or clarify any uncertainties with regard to the information in the request form; and
- (b) satisfy himself or herself that-
 - (i) the requester is a victim or a relative of a victim as provided for in regulation 1 or, if applicable, a person who exercises parental responsibility over a victim or a relative of a victim;
 - (ii) the assistance requested is in respect of a victim or a relative of a victim as provided for in regulation 1;
 - (iii) the assistance requested falls within the ambit of these Regulations;
 - (iv) the requirements or conditions as provided for in these Regulations have been complied with or met;
 - (v) a recommendation has not already been made in respect of the beneficiary for the particular year in respect of which the assistance is requested, with reference to the register referred to in regulation 16(4) or any other document containing information in this regard; and

(vi) there are sufficient funds available to provide the assistance requested.

(2) The administrator must, for the purposes of considering a request for a transport allowance take into account –

(a) the distance to be travelled by the beneficiary between his or her place of residence and the higher education and training institution attended or the place where the learning programme is offered by the skills development provider; and

(b) other modes of transport that are available and the cost thereof.

(3) The administrator must, for the purposes of this regulation consider the request for assistance, where applicable, on the basis of documentary proof, including an affidavit if no other documentary proof is available.

Recommendation in respect of request for assistance

13. (1) The administrator may not make any recommendation to the Fund administrator regarding a request for assistance before the expiry of the cut-off date referred to in regulation 11(3).

(2) (a) The administrator must –

(i) within 60 days after the cut-off date referred to in regulation 11(3), in respect of the requests for assistance received on or before that date;

(ii) in respect of a request for assistance received after the cut-off date, within 30 days after receipt thereof,

make a recommendation in writing to the fund administrator in respect of the requests for assistance.

(b) A recommendation by the administrator to the fund administrator in respect of a request for assistance must indicate the basis of the recommendation and must include a recommendation in respect of the amount to be paid and how that amount is calculated.

(c) The time periods referred to in paragraph (a) may, if the administrator has acted –

(i) in terms of regulation 12(1), be extended for a period equivalent to the period required to receive the additional information or clarify the uncertainty; and

(ii) in terms of subregulation (3)(a), be extended for a period equivalent to the period calculated from the date of that notice until the date specified in that notice within which the requester may respond.

(3) (a) The administrator must, if he or she intends to recommend a refusal of a request for assistance, notify the requester in writing of the intention and the disqualifying factor and invite the requester to respond thereto in the manner and before the date specified by the administrator in the notice.

(b) The administrator may, if no response has been received after the expiry of the date specified in the notice, make a recommendation in respect of the request for financial assistance.

(c) The administrator must, in the event of having received a response, upon receipt thereof, consider the response and make a recommendation in respect of the request for assistance.

(4) The administrator must –

(a) record the reasons for the recommendation in writing;

- (b) record the calculations made in the event of any deductions recommended in terms of regulation 11(4)(b);
 - (c) within seven days after a recommendation has been made, inform the requester orally, if his or her contact particulars are available, and in writing –
 - (i) of the recommendation and of the fact that the fund administrator must still authorise payment;
 - (ii) about any deductions recommended;
 - (iii) about his or her right -
 - (aa) to lodge representations in terms of regulation 17; and
 - (bb) of judicial review as provided for in section 6 of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000),
- should the requester be aggrieved by a recommendation made in terms of this Regulation.

Verification of recommendation

14. (1) The accounting officer must designate an official in the Department of Justice and Constitutional Development to verify a recommendation received from the administrator in terms of regulation 13.

(2) The fund administrator or the official designated in terms of subregulation (1), may request from the administrator any document or any information relevant to an application for assistance received in terms of these Regulations.

(3) The fund administrator or the official designated in terms of subregulation (1), may, if he or she is not satisfied that all the requirements of the regulations have been met, refer a recommendation back to the administrator for reconsideration.

Authorisation and payment of assistance

15. (1) The fund administrator may, after an application has been verified in terms of regulation 14, and if funds are available, authorise the payment of the assistance.

(2) The fund administrator must, upon authorisation of the payment of the assistance, make arrangements regarding payment with the recipients, persons or institutions to be paid.

(3) Payment of assistance must be made –

- (a) from the Fund;
- (b) by electronic transfer; and
- (c) to a recipient or the person, institution or skills development provider referred to in regulation 5, 6, 7 or 8.

(4) The fund administrator must, when making a payment, have regard to sound financial administrative principles, procedures and processes.

(5) The fund administrator may, on a regular basis, make a payment to a recipient or the person or institution referred to in regulation 5, 6, 7 or 8.

(6) (a) The fund administrator may make an advance payment to a recipient in respect of the assistance as provided for in regulations 5(1)(b), 6(1)(c) and (d), 7(1)(c) and (d) and 8(1)(c) and (d) before

a beneficiary has incurred any expense in this regard, if it appears to the Fund administrator to be advisable and if he or she is satisfied, upon submission of proof by the beneficiary, that these expenses will be incurred.

(b) The fund administrator may, for every term or semester, make an advance payment in respect of the boarding allowances of a beneficiary as provided for in regulations 6(1)(b), 7(1)(b) or 8(1)(b) if it appears to the fund administrator to be advisable and if he or she is satisfied, upon submission of proof, that these expenses will be incurred.

(c) The fund administrator may, in writing, direct a beneficiary or a person who exercises parental responsibility over the beneficiary to refund any amount, which has been paid in advance in terms of this Regulation, if the expenditure, in respect of which the amount was paid, has not been incurred.

(d) The fund administrator may only give a direction referred to in paragraph (c) if he or she is satisfied that the expenditure has not been incurred as a result of circumstances over which the beneficiary or person who exercises parental responsibility over the beneficiary has no control.

(7) (a) The fund administrator must, if a boarding allowance provided for in regulation 6(1)(b), 7(1)(b) and 8(1)(b), is paid for the accommodation of the beneficiary at a place other than a hostel, obtain regular proof, but not less than four times per year –

- (i) from the person who provides accommodation that the beneficiary is still residing or lodging there;
- (ii) from the person who provides accommodation, of the amount payable in respect of the accommodation of the beneficiary; and
- (iii) from the higher education institution or the skills development provider that the beneficiary is still registered with the institution or the skills development provider.

(b) The fund administrator may not make any further payments relating to the accommodation of the beneficiary if proof of the facts referred to in paragraph (a) is not submitted within the period specified by the fund administrator.

(8) The fund administrator may only make a payment to a person or an institution in respect of the boarding allowance or fees provided for in regulations 5, 6, 7 and 8, upon receipt of documentary proof confirming –

- (a) the amount to be paid;
- (b) that the beneficiary has been registered at the higher education and training institution or skills development provider;
- (c) if applicable, that the beneficiary resides or boards in a hostel or hires accommodation at another place; and
- (d) any other information which, in the opinion of the fund administrator, is necessary to ensure accountability.

(9) The fund administrator must–

- (a) retain proof of payments;
- (b) in writing inform the beneficiary, recipient, person or institution that a payment has been made; and
- (c) in writing inform the beneficiary that he or she must submit to the fund administrator a certified copy of his or her results provided by the

institution which he or she attended and in respect of which he or she has received assistance, within two weeks after receipt thereof.

(10) The fund administrator must monitor the receipt of the records received and keep record thereof.

Keeping of records by administrator and fund administrator

16. (1) The administrator must keep proper record of –

- (a) the requests received for assistance;
- (b) other information received in connection with the requests for assistance;
- (c) documents received in support of the requests for assistance; and
- (d) the recommendations made in respect of requests received.

(2) The administrator must compile a register containing the following particulars in respect of every request for assistance received:

- (a) The name of the requester;
- (b) the nature of assistance required;
- (c) the name of the victim or relative of the victim for whom assistance is requested;
- (d) the year for which the assistance is requested;
- (e) the recommendation made by the administrator in respect of the request; and
- (f) the amount recommended for payment.

(3) The fund administrator must keep proper record of –

- (a) the recommendations received from the administrator;
- (b) other information received in connection with these recommendations;
- (c) documents received in support of these recommendations; and
- (d) payments made.

(4) The fund administrator must compile a register containing the following particulars in respect of every payment made:

- (a) The name of the beneficiary in respect of whom the assistance is paid;
- (b) the nature of assistance;
- (c) the year for which the assistance is paid;
- (d) the date on which the amount was paid out;
- (e) particulars of the person or institution to whom a payment has been made; and
- (f) particulars of any previous payment made in terms of these Regulations.

(5) The administrator and fund administrator must, except for weekends, update the registers referred to in subregulations (2) and (4) daily.

Representations by aggrieved persons

17. (1) A requester who is aggrieved by a recommendation of the administrator regarding the assistance, may make representations to the Director-General.

(2) The representations referred to in subregulation (1)-

- (a) may be made at any time but not later than 30 calendar days after receipt of the notification of the recommendation of the administrator provided for in regulation 12(4)(c);
- (b) must be in writing;

- (c) must indicate the reasons why the person is aggrieved; and
- (d) must, where possible, be accompanied by documents as proof for the reasons why the person is aggrieved.

(3) The representations must be submitted to the Director-General in one of the following ways:

- (a) By registered post;
- (b) by delivering it personally at the office of the Director-General; or
- (c) by facsimile transmission, in which case proof of the transmission must be retained and the original thereof must be submitted by registered post.

Processing of representations

18. (1) The administrator must, immediately upon notification by the Director-General of the representations received, in terms of regulation 15, submit to the Director-General the documents in his or her possession relevant to the recommendation, together with his or her reasons for the recommendation.

(2) The Director-General may, in order to make a finding regarding the representations, make any enquiries he or she deems fit.

(3) The Director-General must, as soon as circumstances permit, make a finding in regard to the representations and inform the person who made the representations orally, if the contact particulars of the requester are available, and in writing of his or her finding.

Cession, assignment or attachment of benefits

19. Despite any law to the contrary, any amount which has been paid or is to be paid as assistance in terms of these Regulations may not-

- (a) be ceded or assigned by a beneficiary or recipient to whom it has been granted;
- (b) be attached under a judgment of a court of law; or
- (c) form part of the estate of the beneficiary or recipient, should such estate be sequestrated.

Period of application

20. (1) These Regulations apply for a period of five years from the date of commencement thereof.


(2) Despite the expiry of these Regulations, the administrator must, in respect of a request which was received by the administrator before the date of expiry of these Regulations, apply these Regulations as if they had not expired: Provided that the request for assistance is in respect of the year in which these Regulations expire and that funds are available.

Short title and commencement

21. (1) These Regulations are called the Regulations relating to Assistance to Victims in respect of Higher Education and Training, 2011.

(2) These Regulations come into operation on

ANNEXURE
PROMOTION OF NATIONAL UNITY AND RECONCILIATION
ACT, 1995
REQUEST FORM FOR ASSISTANCE IN TERMS OF THE
REGULATIONS RELATING TO ASSISTANCE TO VICTIMS IN
RESPECT OF HIGHER EDUCATION AND TRAINING
[Regulation 1]

<p style="text-align: center;">READ THIS FIRST</p> <p style="text-align: center;"></p> <p style="text-align: center;">This request form may only be used if you :</p> <p>- you have been identified as a victim by the Truth and Reconciliation Commission (TRC) because you have suffered emotionally, physically or mentally or, your human rights have been grossly violated as a result of the conflicts of the past;</p> <p style="text-align: center;">Or</p> <p>- you are the spouse or child of or, if supported by a victim, a grandchild of a victim,</p> <p style="text-align: center;">and</p> <p style="text-align: center;">wish to request financial assistance for</p> <p>- adult basic education and training (learning and training programmes for persons who are sixteen years or older</p>	<p>B. DETAILS OF PERSON WHO REQUESTS ASSISTANCE</p> <hr/> <p>1. Are you a victim? <input type="checkbox"/> YES/<input type="checkbox"/> NO</p> <p style="text-align: center;">Or</p> <p>Are you a spouse, child or grandchild of a victim?</p> <p style="text-align: center;"><input type="checkbox"/> YES/<input type="checkbox"/> NO</p> <p>2. What is your relationship with the victim if you are not a victim : (for eg : are you the spouse or child of victim or, grandchild of a victim)</p> <p>3. If you are a grandchild of a victim, are you supported by the victim? <input type="checkbox"/> YES/<input type="checkbox"/> NO</p> <p>4. If you are a grandchild and are supported by a victim, give details about the support : (Attach proof that a victim supports you. The proof may include an affidavit by someone who can confirm that you are supported by a victim.)</p> <p>5. Title: (Mr, Miss, Mrs, Dr)</p> <p>6. Disabilities: <input type="checkbox"/> YES/<input type="checkbox"/> NO If yes, give details</p> <p>7. Gender: <input type="checkbox"/> Male/<input type="checkbox"/> Female</p> <p>8. Surname :</p> <p>9. First Names :</p> <p>10. ID number :</p> <p>11. Date of birth :</p> <p>12. Contact details : (State below the address where you live to which mail may be sent. If you do not have an address, state who is the best other person to contact, e.g. place of worship school, community leader, etc.)</p> <p>Home address : Contact details of other person (if applicable) :</p>
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<p>and the highest level of education is similar to grade 9);</p> <p>- <i>further education and training</i> (enroll at a college);</p> <p>- <i>higher education</i> (enroll at university or technicon after having passed grade 12); or</p> <p>- <i>skills development</i>.</p> <p>Remember to attach documents confirming the information given in this form, for example, certified copies of an identity book and the letter from the TRC indicating that you are a victim.</p>	<p>Postal address : (State below the address to which mail must be sent. If you do not have an address, state who is the best other person to contact, e.g. place of worship, school, community leader, etc.)</p> <p>.....</p> <p>.....</p> <p>Contact details of other person (if applicable) :</p> <p>.....</p> <p>13. Telephone Numbers :</p> <p>Home : (Area code and no – for example (012 – 3173908)</p> <p>Work : (Area code and no – for example (012 – 3170934)</p> <p>Cell no :</p>
<p>Complete this part only if you are requesting assistance on behalf of another person. Indicate here the details of the person who is to receive the assistance.</p>	<p>B.1 DETAILS OF PERSON ON WHOSE BEHALF ASSISTANCE IS REQUESTED</p> <hr/> <p>1. Is the person a victim? <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p style="text-align: center;">Or</p> <p>Is the person a spouse, child or grandchild of a victim? <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>2. What is the person’s relationship with the victim if that person is not a victim : (for eg : are you the spouse or child or grandchild of a victim)</p> <p>3. If the person is a grandchild of a victim, is he or she supported by the victim : <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>4. If the person is a grandchild of a victim and is supported by a victim, give details about the support : (Attach proof that the victim supports the person. The proof may include an affidavit by someone who can confirm that the person is supported by a victim.)</p> <p>5. Title :</p>

	<p>(Mr, Miss, Mrs, Dr)</p> <p>6. Does the person have any disability : YES/NO If yes, give details :</p> <p>7. Gender : Male/Female</p> <p>8. Surname :</p> <p>9. First Names :</p> <p>10. ID number :</p> <p>11. Date of birth :</p> <p>12. Contact details : (State below the address where you live to which mail may be sent. If you do not have an address, who is the best other person to contact, e.g. place of worship, school, community leader, etc.) Home address : Contact details of other person (if applicable) : Postal address : (State below the address to which mail must be sent. If you do not have an address, state who is the best other person to contact, e.g. place of worship, school, community leader, etc.) Contact details of other person (if applicable) :</p> <p>13. Telephone Numbers: Home : (Area code and no – for example (012 – 3173908) Work : (Area code and no – for example (012 – 3170934) Cell no :</p>
<p>Complete this part only if the person in respect of whom the assistance is requested has received any form of assistance from the State, for example a bursary or any discount or has been exempted from paying fees. Indicate here the form of assistance and the amount received.</p>	<p>B. 2 PARTICULARS OF FINANCIAL ASSISTANCE/AID/CONCESSIONS RECEIVED</p> <hr/> <p>1. Name of the institution/person who granted the aid/assistance:</p> <p>2. The year for which assistance was received :</p> <p>3. Nature and Amount of the assistance/aid :</p> <p>4. Conditions attached to the aid/assistance :</p>
<p>Complete</p>	<p>C. FORMS OF ASSISTANCE REQUESTED</p> <hr/>

- **C.1** when requesting assistance for **ADULT BASIC EDUCATION AND TRAINING**;
- **C.2** when requesting assistance for **FURTHER EDUCATION AND TRAINING**
- **C.3** when requesting assistance for **HIGHER EDUCATION**
- **C.4** when requesting assistance for **SKILLS DEVELOPMENT**

Remember
that in respect of C.1, C.2, C.3 and C.4 there are more than one form of assistance which may be requested, for example fees and transport allowances.

C.1 ASSISTANCE FOR ADULT BASIC EDUCATION AND TRAINING (Reg 5)

1. Year in respect of which assistance is requested :
2. Do you request assistance in respect of fees :
YES/NO
3. If you wish to request assistance for fees, please complete the following :
Institution Details :
 - (a) Name of Institution :
 - (b) Address of Institution :
.....
(Indicate the physical address, in other words where the institution is situated)
 - (c) Banking details of Institution :
 - (i) Name of Account Holder :
 - (ii) Name of bank :
 - (iii) Account number :
 - (iv) Branch code :
(Bank in question must affix its stamp here to confirm the banking details of the Institution.)
 - (d) Amount of fees per annum :
(Attach proof of the amount payable and that the person in respect of whom assistance is requested, has been enrolled at the Institution.)
4. If you wish to request assistance in respect of **travelling**, please complete the following:
 - (a) Method of transport :
 - (b) Particulars of Institution / person providing transport :
.....
 - (c) Distance between house and centre where programme is offered :
 - (d) Amount requested for transport for the year :
 - (e) Banking details of the institution / person in whose bank account money is to be paid :
 - (i) Name of Account holder :
 - (ii) Name of bank :
 - (iii) Account number :
 - (iv) Branch code :
(Bank in question must affix its stamp here to confirm the banking details of the Institution/person.)
(Attach proof of the amount and of the fact that the person in respect of whom assistance is requested, makes use of this method of transport.)

Signature of requester
Date :

Signature of person on
whose behalf assistance is
requested
Date :

	<p>C.2 ASSISTANCE FOR FURTHER EDUCATION AND TRAINING (Reg 6)</p> <p>1. Year in respect of which assistance is requested :</p> <p>2. Do you request assistance in respect of fees : <input type="checkbox"/> YES/<input type="checkbox"/> NO</p> <p>3. If you wish to request assistance for fees, please complete the following : <i>College Details:</i> (a) Name of Centre : (b) Address of Centre : (Indicate the physical address, in other words where the college is situated) (c) Banking details of College : (i) Name of Account Holder : (ii) Name of bank : (iii) Account number : (iv) Branch code : (Bank in question must affix its stamp here to confirm the banking details of the Centre.) (d) Amount of fees per year : (Attach proof of the amount payable and that the person in respect of whom assistance is requested, has been registered at the College.)</p> <p>4. If you wish to request assistance in respect of boarding fees, please complete the following : <i>Boarding Home Details :</i> (a) Name of hostel/boarding home : (b) Address of hostel/boarding home : (Indicate the physical address, in other words where the hostel or boarding home is situated.) (c) Banking details of hostel or boarding home : (i) Name of Account Holder : (ii) Name of bank : (iii) Account number : (iv) Branch code : (Bank in question must affix its stamp here to confirm the banking details of the hostel/boarding home.) (d) Amount of boarding fees per annum : (Attach proof of the amount payable and that the person in respect of whom assistance is requested, is hiring accommodation.)</p> <p>5. If you wish to request assistance for travelling, please complete the following : (a) Method of transport :</p>
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	<p>(b) Particulars of Institution / person providing transport :</p> <p>(c) Amount requested for transport for the year :</p> <p>(d) Banking details of the institution / person in whose bank account money is to be paid :</p> <p style="margin-left: 20px;">(i) Name of Account Holder :</p> <p style="margin-left: 20px;">(ii) Name of person :</p> <p style="margin-left: 20px;">(iii) Name of bank :</p> <p style="margin-left: 20px;">(iv) Account number :</p> <p style="margin-left: 20px;">(v) Branch code : (Bank in question must affix its stamp here to confirm the banking details of the Institution/person.) (Attach proof of the amount and of the fact that the person in respect of whom assistance is requested, makes use of this method of transport.)</p> <p>6. If you wish to request assistance to purchase text books, please complete the following :</p> <p>Banking details of institution/person in whose bank account money is to be paid :</p> <p style="margin-left: 20px;">(a) Name of Account Holder :</p> <p style="margin-left: 20px;">(b) Name of bank :</p> <p style="margin-left: 20px;">(c) Account number :</p> <p style="margin-left: 20px;">(d) Branch code : (Bank in question must affix its stamp here to confirm the banking details of the institution / person.)</p>		
	<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> <p>_____ Signature of requester Date :</p> </td> <td style="width: 50%; border: none;"> <p>_____ Signature of person on whose behalf assistance is requested Date :</p> </td> </tr> </table>	<p>_____ Signature of requester Date :</p>	<p>_____ Signature of person on whose behalf assistance is requested Date :</p>
<p>_____ Signature of requester Date :</p>	<p>_____ Signature of person on whose behalf assistance is requested Date :</p>		
	<p>C.3 ASSISTANCE FOR HIGHER EDUCATION (Reg 7)</p> <p>1. Year in respect of which assistance is requested :</p> <p>2. Do you request assistance in respect of fees : YES/NO</p> <p>3. If you wish to request assistance for fees, please complete the following :</p> <p>Institution Details :</p> <p style="margin-left: 20px;">(a) Name of Institution :</p> <p style="margin-left: 20px;">(b) Address of Institution : (Indicate the physical address, in other words where the institution is situated)</p> <p style="margin-left: 20px;">(c) Banking details of Institution :</p> <p style="margin-left: 40px;">(i) Name of Account Holder :</p> <p style="margin-left: 40px;">(ii) Name of bank :</p>		

	<p>(iii) Account number :</p> <p>(iv) Branch code :</p> <p>(Bank in question must affix its stamp here to confirm the banking details of the Institution.)</p> <p>(d) Amount of registration fees per year :</p> <p>(Attach proof of the amount payable and that the person in respect of whom assistance is requested, has been registered at the Institution.)</p> <p>4. If you wish to request assistance in respect of boarding fees, please complete the following :</p> <p><i>Hostel / boarding home Details :</i></p> <p>(a) Name of hostel/boarding home :</p> <p>(b) Address of hostel/boarding home :</p> <p>... ..</p> <p>(Indicate the physical address, in other words where the hostel/boarding home is situated.)</p> <p>(c) Banking details of hostel/boarding home :</p> <p>(i) Name of Account Holder :</p> <p>(ii) Name of bank :</p> <p>(iii) Account number :</p> <p>(iv) Branch code :</p> <p>(Bank in question must affix its stamp here to confirm the banking details of the hostel/boarding home.)</p> <p>(d) Amount of boarding fees per annum :</p> <p>(Attach proof of the amount payable and that the person in respect of whom assistance is requested, is hiring accommodation.)</p> <p>5. If you wish to request assistance for travelling, please complete the following :</p> <p>(a) Method of transport :</p> <p>(b) Particulars of Institution/person providing transport :</p> <p>(c) Distance between home and institution :</p> <p>(d) Amount requested for transport for the year :</p> <p>(e) Banking details of the institution / person in whose bank account money is to be paid :</p> <p>(i) Name of Account Holder :</p> <p>(ii) Name of bank :</p> <p>(iii) Account number :</p> <p>(iv) Branch code :</p> <p>(Bank in question must affix its stamp here to confirm the banking details of the Institution / person.)</p> <p>(Attach proof of the amount and of the fact that the person in respect of whom assistance is requested, makes use of this method of transport.)</p> <p>6. If you wish to request assistance to purchase text books, please complete the following :</p>
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	<p>Banking details of person/institution in whose bank account money is to be paid :</p> <p>(i) Name of Account Holder :</p> <p>(ii) Name of bank :</p> <p>(iii) Account number :</p> <p>(iv) Branch code :</p> <p>(Bank in question must affix its stamp here to confirm the banking details of the person/Institution.)</p> <p>_____ Signature of requester Date :</p> <p>_____ Signature of person on whose behalf assistance is requested Date :</p>
	<p>C.4 ASSISTANCE FOR SKILLS DEVELOPMENT (Reg 8)</p> <p>1. Year in respect of which assistance is requested :</p> <p>2. Do you request assistance in respect of fees : <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>3. If you wish to request assistance for fees, please complete the following :</p> <p><i>Details of skills development provider :</i></p> <p>(a) Name of provider :</p> <p>(b) Address of provider : (Indicate the physical address, in other words where the business of the provider is situated)</p> <p>(c) Banking details of provider :</p> <p>(i) Name of Account Holder :</p> <p>(ii) Name of bank :</p> <p>(iii) Account number :</p> <p>(iv) Branch code :</p> <p>(Bank in question must affix its stamp here to confirm the banking details of the provider.)</p> <p>(d) Amount of fees per year : (Attach proof of the amount payable and that the person in respect of whom assistance is requested, has been registered with the provider.)</p> <p>4. If you wish to request assistance in respect of boarding fees, please complete the following :</p> <p><i>Hostel/boarding home Details :</i></p> <p>(a) Name of hostel/boarding home :</p> <p>(b) Address of hostel / boarding home : (Indicate the physical address, in other words where the hostel/boarding home is situated.)</p>

	<p>(c) Banking details of hostel / boarding home: (i) Name of Account Holder : (ii) Name of bank : (iii) Account number : (iv) Branch code : (Bank in question must affix its stamp here to confirm the banking details of the hostel/boarding home.)</p> <p>(d) Amount of boarding fees per annum : (Attach proof of the amount payable and that the person in respect of whom assistance is requested, is hiring accommodation.)</p> <p>5. If you wish to request assistance for travelling, please complete the following :</p> <p>(a) Method of transport : (b) Particulars of Institution / person providing transport : (c) Distance between home and place of business of skills development provider : (d) Amount requested for transport for the year : (e) Banking details of the institution / person in whose bank account money is to be paid : (i) Name of Account Holder : (ii) Name of bank : (iii) Account number : (iv) Branch code : (Bank in question must affix its stamp here to confirm the banking details of the Institution/person.) (Attach proof of the amount and of the fact that the person in respect of whom assistance is requested, makes use of this method of transport.)</p> <p>6. If you wish to request assistance to purchase text books, please complete the following : Banking details of institution / person in whose bank account money is to be paid : (i) Name of Account Holder : (ii) Name of bank : (iii) Account number : (iv) Branch code : (Bank in question must affix its stamp here to confirm the banking details of the person / Institution.)</p>
<p>_____ Signature of requester Date :</p>	<p>_____ Signature of person on whose behalf assistance is requested Date :</p>